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PTO/SB/65 (03-09)

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 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
 MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)
 2-5127-013

Mail to: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450
 Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,408,979

Application Number: 09/525,365

Issue Date: 06/25/2002

Filing Date: 03/15/2000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above identified patent:

- ☐ is a reissue of original Patent No. _____ original issue date _____
 original application number _____
 original filing date _____
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
 _____ filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

05/07/2009

Date

Vicki J. Shepherd
 Signature

Vicki J. Shepherd

Typed or printed name of person signing Certificate

05/21/2009 DALLIN 00000022 001650 6408979

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[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/97 (04-09)

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571-273-8300

U.S. Patent No. 6,408,979

Serial No. 09/525,365

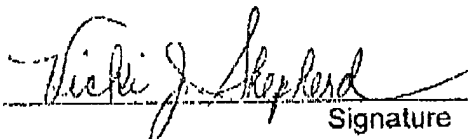
Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

05/07/2009

On

Date



Signature

Vicki J. Shepherd

Typed or printed name of person signing Certificate

515-288-9589

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (CFR 1.378(b)), PTO/SB/65, consisting of five pages;
 2. PETITION TO EXPEDITE consisting of one sheet;
 3. DECLARATION OF VICKI J. SHEPHERD with Exhibits A-T, consisting of 26 pages;
 4. DECLARATION OF CAROLYN J. CAMPBELL WITH Exhibits A-F, consisting of 11 pages;
 5. DECLARATION OF MICHEL KHOURI WITH EXHIBIT I, consisting of four sheets
- all for U.S. Patent No. 6,408,979 issued June 25, 2002 (Serial No. 09/525,365, filed March 15, 2000).

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input checked="" type="checkbox"/> \$ 900.00	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 130.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 130.00

5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ _____
- ☒ Please charge Deposit Account No. 08-1650 the sum of \$ 1,110.00
- ☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 08-1650

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7. OVERPAYMENT

As to any overpayment made, please

☐

Credit to Deposit Account No. _____

OR

☒

Send refund check

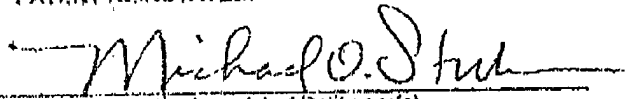
WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

05/07/2009

Date

Michael O. Sturm

26078

Typed or printed name(s)_____
Registration Number, if applicable

206 6th Ave - Suite 1213

515-288-9589

Address_____
Telephone Number

Des Moines, IA 50309-4076

Address

ENCLOSURES:

☒

Maintenance Fee Payment

☒

Statement why maintenance fee was not paid timely

☒

Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)

☒

Other:

Petition to Expedite; Declarations with Exhibits

[Page 3 of 4]

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

Michael O. Sturm
Signature

05/07/2009

Date

Michael O. Sturm

Type or printed name

26078

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached sheet for Statement.

(Please attach additional sheets if additional space is needed)

[Page 4 of 4]

STATEMENT (Page 4)

The attached Declarations of VICKI J. SHEPHERD, CAROLYN J. CAMPBELL, and MICHAEL KHOURI, along with the accompanying EXHIBITS for each Declaration, show that care was taken to ensure the timely payment of the first maintenance fee for U.S. Patent No. 6,408,979 and that non payment of the maintenance fee was unavoidable. Mahle did indeed make payment for the first maintenance fee, along with the government surcharge for filing within the grace period. Sturm & Fix LLP did have the matter on their docket, but through a series of mistakes did not timely pay the maintenance fee on behalf of Mahle. The patent became marked as ABANDONED in the Sturm & Fix LLP docketing system because of a series of unusual circumstances, especially rendering an Invoice before payment by Mahle, and Mahle's payment of that Invoice which zeroed out the accounts receivable report. Normally a credit would be showing in Sturm & Fix LLP's books and alert Sturm & Fix LLP that the maintenance fee payment had been made by the client. This credit showing would further alert the Sturm & Fix LLP staff that the required maintenance fee had not been paid to the Patent Office. Under the just mentioned scenario Sturm & Fix LLP's normal procedure would be to pay the maintenance fee, remove the client's payment from the trust account and issue an Invoice to the client showing payment of the maintenance fee to the Patent Office. But, as explained in the attached Declarations, in this case the normal scenario did not happen, so Sturm & Fix LLP was not alerted in the normal ways that the maintenance fee had been authorized, but not paid to the United States Patent and Trademark Office.

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Atty. Docket 2-5127-013

Customer No. 00803

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees: Larry D. FORBES, et al.

Assignee: MAHLE-Parr Filter Systems, Inc.

Patent No. **6,408,979**

Serial No. 09/525,365

Issued: June 25, 2002

Filed: March 15, 2000

For: NOISE ABATEMENT FILTER

PETITION TO EXPEDITE

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the attached **PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))** be processed on an expedited basis.

The fee of \$400 for this Petition to Expedite is authorized to be charged to our Deposit Account No. 08-1650 maintained in the name of Sturm & Fix LLP. Any additional filing fees regarding this submission are also authorized to be charged to this account.

Respectfully submitted,

MAHLE-PARR FILTER SYSTEMS, INC.

05/07/2009
Date

By Michael O. Sturm
Michael O. Sturm
Reg. No. 26,078

STURM & FIX LLP
206 Sixth Avenue - Suite 1213
Des Moines, IA 50309-4076
Phone: 515-288-9589
Fax: 515-288-4860
e-mail: sturm@hsllp.com